

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ALEJANDRO ABELES,

Plaintiff/  
Counterclaim Defendant,

- against -

MICHAEL WOLK,

Defendant/  
Counterclaim Plaintiff.

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22-cv-1244 (JGK)

MEMORANDUM OPINION  
AND ORDER

JOHN G. KOELTL, District Judge:

In a Memorandum Opinion and Order dated May 16, 2022 (the "Remand Order"), the Court Ordered that this action be remanded to the New York State Supreme Court, New York County. The defendant, Michael Wolk, has filed a motion for expedited relief seeking (1) clarification of the Remand Order, or (2) an interim stay of the Remand Order pending clarification or a potential motion for reconsideration under Federal Rule of Civil Procedure 59.

The Remand Order does not require clarification. The Court ruled that the Court lacks subject matter jurisdiction over this action because the non-party contempt motion that Wolk removed is not a removable civil action under 28 U.S.C. § 1441. See ECF No. 15, at 4. Accordingly, the Court did not need to consider Abeles's non-jurisdictional arguments in support of remand or


whether any of those arguments were waived under 28 U.S.C. § 1447(c). Id.

Because the Court's Remand Order was based on 28 U.S.C. § 1447(c) - the Court's lack of subject matter jurisdiction - 28 U.S.C. § 1447(d) prevents the Court from reconsidering the Remand Order. Shapiro v. Logistec USA, Inc., 412 F.3d 307, 311-12 (2d Cir. 2005); see also Comm'r of Soc. Servs. on Behalf of Boertlein v. Clarke, 768 F. App'x 92, 93 & n.1 (2d Cir. 2019); In re WTC Disaster Site, 414 F.3d 352, 364 (2d Cir. 2005); Fouad v. Milton Hershey School and School Trust, 523 F. Supp. 3d 648, 653 (S.D.N.Y. 2021).

Accordingly, Wolk's motion is **denied** and the Court will not entertain any motion to reconsider the Remand Order. The Clerk is directed to close Docket No. 16.

**SO ORDERED.**

**Dated: New York, New York  
May 17, 2022**

  
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**John G. Koeltl**  
**United States District Judge**